

REMARKS

Claims 1-16 were previously presented for examination. Pursuant to the Non-Final Office Action dated February 8, 2007, claims 11-17 are presented herewith. Claims 1-10 are canceled. Claims 11 and 13-16 are as originally presented. Claim 12 is currently amended, and claim 17 is new.

Support for amended claim 12 is provided by original claim 12. Support for claim 17 is provided by claim 13. Support is also provided, for example, on page 3, lines 21-23 and on page 4, lines 3-5 of the Applicants' specification.

Pursuant to the Examiner's request, the informalities appearing on page 8, line 18; page 9, line 26; and page 13, line 4 of the specification have been corrected.

Applicants affirm that no new matter has been added to the patent application. Applicants hereby request careful reconsideration of this application in view of the following comments and revisions to the claims.

RESPONSE TO 35 U.S.C. § 112 REJECTION

Claims 3 and 12-16

The Examiner rejected claims 3 and 12-16 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention.

Claim 3 has been canceled.

Pursuant to the Examiner's request for clarification, claim 12 has been revised. The revisions to claim 12 also serve to clarify the scope of dependent claims 13-16.

Therefore, Applicants respectfully request withdrawal of the § 112 rejection in view of the foregoing comments and revisions to the claims.

RESPONSE TO OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Claims 11-16

Claims 11-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-16, respectively, of U.S. Patent No. 6,630,063.

Applicants have submitted a Terminal Disclaimer in accordance with 37 C.F.R. § 1.321, showing that U.S. Patent No. 6,630,063 is commonly owned with this application. SpectruMedix LLC is the owner of the right, title, and interest in the present application and U.S. Patent No. 6,630,063. The documents in the chain of title from the inventors of the present application and the '063 patent to SpectruMedix LLC are identified in the enclosed "Statement Under 37 C.F.R. § 3.73(b)." The appropriate fee under 37 C.F.R. § 1.20(d) is enclosed.

Applicants have taken appropriate action to overcome the double patenting rejection. Therefore, Applicants request withdrawal of this rejection and reconsideration of this patent application.

Applicants submit that presently pending claims 11-17 are in condition for allowance. Accordingly, entry and careful consideration of this Response and an early indication of allowance is hereby requested. If the Examiner believes there is any issue that could be resolved by a telephone conference or a personal interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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